



ATTACH #19

PATENT  
ATTORNEY DOCKET NO. 056297-5009A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: )  
Stephen FODOR et al. )  
Application No.: 09/776,768 ) Group Art Unit: 1637  
Filed: February 6, 2001 ) Examiner: J. Siew  
For: IDENTIFYING A BASE IN A NUCLEIC ACID )

RECEIVED

Commissioner for Patents  
Washington, D.C. 20231

DEC 27 2002

Sir:

TECH CENTER 1600/2900

AMENDMENT AND ELECTION REQUIREMENT TRANSMITTAL FORM

1. Transmitted herewith is a Preliminary Amendment and a Response to the Election Requirement dated November 26, 2002 (Paper No. 18), the period for response to which extends to December 26, 2002.
2. Additional papers enclosed:

Drawings:  Formal  Informal (Correction)  
 Information Disclosure Statement  
 Form PTO-1449, \_\_\_\_\_ references included  
 Citations  
 Declaration of Biological Deposit  
 Submission of "Sequence Listing," computer readable copy and/or amendment pertaining thereto for biotechnology invention containing nucleotide and/or amino acid sequence.

3. Extension of Time

The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136(a) apply.

Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

[ ] Applicant petitions for an extension of time, the fees for which are set out in 37 CFR § 1.17(a), for the total number of months checked below:

<u>Total Months Requested</u>	<u>Fee for Extension</u>	<u>[Fee for Small Entity]</u>
[ ] one month	\$ 110.00	\$ 55.00
[ ] two months	\$ 400.00	\$200.00
[ ] three months	\$ 920.00	\$460.00
[ ] four months	\$1,440.00	\$720.00
[ ] five months	\$1,960.00	\$980.00

Extension of time fee due with this request: \$\_\_\_\_\_

If an additional extension of time is required, please consider this a Petition therefor.

[ ] An extension for \_\_\_ months has already been secured and the fee paid therefor of \$\_\_\_\_\_ is deducted from the total fee due for the total months of extension now requested.

#### 4. Fee Calculation (37 C.F.R. § 1.16)

CLAIMS AS AMENDED						
	Claims Remaining After Amendment		Highest No. Previously Paid	Present Extra	at Rate of	Total Fees
Total Claims (37 C.F.R. § 1.16(c))	19	minus	24	0	x \$18 each=	+ \$0.00
Independent Claims (37 C.F.R. § 1.16(b))	1	minus	4	0	x \$80 each=	+ \$0.00
[ ] First presentation of Multiple dependent claim(s)					\$270.00	+ \$
<b>SUB-TOTAL =</b>						<b>\$0.00</b>
<b>Reduction by 2 for filing by a small entity</b>						<b>- \$0.00</b>
<b>TOTAL FEE =</b>						<b>\$ 0.00</b>

#### 5. Fee Payment

[X] No fee is to be paid at this time.

[ ] The Commissioner is authorized to deduct from Deposit Account No. 50-0310 the amount of \$\_\_\_\_\_

The Commissioner is hereby authorized to charge any additional fees which may be required, including fees due under 37 CFR § 1.16 and 1.17, or credit any overpayment to Deposit Account 50-0310.

6. Constructive Petition

**EXCEPT** for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. § 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

**MORGAN, LEWIS & BOCKIUS LLP**



F. Pierre VanderVegt, Reg. No. 49,088  
Michael S. Tuscan, Ph.D.  
Reg. No. 43,210

Dated: December 26, 2002

By:

**CUSTOMER NO. 09629**

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**AMENDMENT AND RESPONSE TO ELECTION REQUIREMENT**

**IN THE CLAIMS:**

Please cancel claims 1-24 without prejudice or disclaimer.

Please enter the following new claims 25-43:

*Sub C1*  
25.(new) A method of detecting a mutation in a target nucleic acid sequence *versus* a known sequence comprising:

a) screening the target sequence by exposing the target sequence to at least one known core sequence probe; and  
b) determining the absolute binding affinity of the target sequence to the known core sequence probe;  
thereby detecting whether a target sequence comprises a mutation.

*B 1*  
26.(new) A method of claim 25, wherein the at least one known core sequence probe is an array of known core sequence probes.

27.(new) A method of claim 25 further comprising before step a), identifying one or more core sequences which are present within the known sequence and would be expected to have high affinity to the target sequence if the target sequence does not contain a mutation.